

1 **Comments and Responses Concerning the Draft Zoning Ordinance and Draft**
2 **Subdivision Control Ordinance Received Through September 6, 2002. Responses to**
3 **the comments are provided in *italicized* font.**
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6 Eric Lowry, Jr., Scott County Emergency Management provided the following comments
7 on July 12, 2002.
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9 St. Joseph County has the following in Title 20 of their County Code:

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11 In those areas of the County not zoned “R” Residential at the time of passage of this
12 ordinance and where the Commissioners and the St. Joseph County Emergency
13 Management Agency determines that adequate coverage by the County’s early warning
14 siren system does not exist for a proposed major subdivision of ten (10) or more lots and
15 where the Commissioners and the St. Joseph County Emergency Management Agency
16 determines it necessary for public safety, developers of new major subdivisions with 10
17 or more lots shall be required to furnish and install an Early Warning System that meets
18 the specifications of the St. Joseph County Emergency Management Agency or its
19 successors. Following its acceptance by the St. Joseph County Emergency Management
20 Agency, the Early Warning System will be maintained by the County.
21

22 I’d like us to consider including similar language in our subdivision ordinance. Question,
23 would this wording include mobile home parks?
24

25 *Response: We see no problem with including this provision in the Subdivision Control*
26 *Ordinance if the Plan Commission would like to include the provision. We believe that if*
27 *the provision is included in the ordinance that it would apply to all subdivisions including*
28 *mobile home parks. We do not know the cost associated with installing an Early*
29 *Warning System, but it must be recognized that the system would increase development*
30 *costs.*
31

32 I’ve been unable to find the exact reference but I also want to include something like the
33 following:
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35 In the proposed construction of a major subdivision of five (5) or more lots to be
36 occupied by mobile homes and/or modular homes, developers shall be required to
37 construct on site an underground or reinforced above ground storm shelter that meets the
38 specifications of the Scott County Emergency Management Agency or its successors.
39

40 *Response: This requirement could be included if the Plan Commission so desires. We do*
41 *not know the cost associated with installing a shelter, but it should be recognized that the*
42 *shelter would increase development costs.*
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46

Dennis Nicholas, President of the Scottsburg City Council and Member of the Scottsburg Board of Public Works and Safety provided the following materials and comments.

Dennis provided a copy of zoning classifications used by Seymour and Columbus (please see the attached descriptions). Dennis expressed concern that a majority of the City Councilmen feels severely constrained by the lack of protections that the present system provides after a zoning change is allowed.

Response: We suggest that the zoning classification within the City of Scottsburg should be expanded. If agreeable to the Plan Commission, we will work with the City Council to develop zoning classification that would be applicable only inside the corporate limits of the City of Scottsburg.

Dennis also expressed concerned that there is little control over billboards along the highways (interstate included). Seymour's ordinance allows billboards only by special permit, in commercial or industrial districts, and only along state or federal highways. The billboards are restricted to being at least 1,500 feet apart.

Response: The Draft Zoning Ordinance, Section 5.5 Signs, states that billboards are permitted in the GB (General Business), and I (Industrial) Districts. The draft ordinance could be revised so that billboards would only be permitted in the I District by Special Exemption. The Zoning Ordinance could also restrict billboards to a minimum of 1,500 feet apart. We suggest that these revisions should be incorporated into the ordinance.

The following comments are contained in a letter dated August 28, 2002 from the Concerned Citizens of Scott County to Saegesser Engineering and the Area Plan Commission. The letter was delivered to us during the August 28th public hearing at the Vienna-Finley Elementary School.

1. Comment 3 of the "Comments and Response Section" discusses definitions for junkyard, dump, and landfill.

The definition for landfill seems to imply that its purpose is to "build up low-lying ground".

Response: We suggest that the reference to low-lying ground be deleted from the definition.

The definition for dump uses "accumulation of refuse and discarded material", and landfill uses "trash and garbage disposal". What is the difference?

Response: The Draft Zoning Ordinance defines "Junk Yard" as... "A place, usually outdoors, where waste or discarded used property, including but not limited to automobiles, farm implements and trucks, is accumulated and is or may

93 *be salvaged for reuse or resale. The does not include industrial scrap metal or*
94 *accumulation of organic material.” We suggest that the junkyard definition be*
95 *expanded to include...”An establishment or place of business that is maintained,*
96 *operated, or used for storing, keeping, buying, or selling junk, or for the*
97 *maintenance or operation of an automobile graveyard.”*

98
99 *We suggested a definition of “Landfill” as...A system of trash and garbage*
100 *disposal in which the waste is buried between layers of earth to build up low-lying*
101 *ground.*

102
103 *We suggested a definition of “ Dump” as...A place where an accumulation of*
104 *refuse and discarded materials are dumped or stored either above or below the*
105 *surface of the ground.*

106
107 *We suggest that the definitions for “Landfill” and “Dump” be combined to*
108 *read...”Landfill or Dump” A place or system of trash, garbage, refuse, or*
109 *discarded materials, either organic or non-organic, are dumped or stored either*
110 *above or below the surface of the ground*

111
112 Should there be a definition for a “commercial landfill” versus the physical
113 definition? For example, the definition for a commercial landfill could include a
114 reference to the fact that it must obtain Indiana Department of Environmental
115 Management (IDEM) permits and follow strict EPA guidelines.

116
117 *Response: A definition for Commercial Landfill could be included and defined*
118 *as...”A landfill operation that must obtain a construction or operation permit*
119 *from the State of Indiana.”*

- 120
121 2. When reviewing the definition for junkyard, “waste” is used in the definition.
122 This can leave an area for broad interpretation. Is it clear in the junkyard
123 definition that this cannot be a landfill?

124
125 Can “waste” be removed from the junkyard definition?

126
127 *Response: We believe that the word “waste” can be removed from the junkyard*
128 *definition.*

- 129
130 3. When reviewing the definition for Scrap Metal Yard it says that the accumulation
131 of organic or non-metal such as wood, etc.... disqualify it as a scrap metal yard
132 and classify it as a junkyard. However, in the junkyard definition it disqualifies
133 organic material.

134
135 *Response: We suggest that the reference to “junkyard” be changed to “landfill”.*

- 136
137 4. Question 14 of the Comments and Response section asks if it is possible to list
138 landfills under Special Exceptions in the Industrial District. The response states

that if the “Plan Commission desires, landfills can be added to one of the Zoning Districts as either a permitted use or a special exception”. As drafted, a landfill would be considered under the Unlisted or Questionable Land Uses. It also states that the Plan Commission or Planning Director may make a determination into which category a landfill would be placed.

Wouldn’t leaving a landfill as “unlisted” or “questionable” put the County in the same position it is in right now?

Response: By listing a landfill as a possible use, we believe that the Plan Commission might have to approve the use if applicable requirements were met. We request that the Plan Commission attorney address this item.

Since a commercial landfill requires IDEM permits and adherence to EPA guidelines, will the Plan Commission list landfills under the Industrial District as a Special Exception?

Response: See above response concerning whether or not to list “landfill” as a Special Exception.

5. Does a landfill now fall under the Plan Approval Process – 6.6? If so, the transportation issue would be considered, correct?

Response: We believe that a landfill would fall under the Plan Approval Process and that the Plan Commission would consider the transportation issue.

6. Can you give us an explanation of Special Use and Special Exception?

Response: A Special Exception is defined as... “The authorization of a use that is designated as such by this ordinance as being permitted in the district concerned if it meets special conditions, is found to be appropriate and upon application, is specifically authorized by BZA.” “Special Use” is not defined in the ordinance.

7. Impact on “comfort” is mentioned in 1.7 Interpretation as part of the deciding criteria for allowing a special use. However, it has been removed from Use Variance – 9.3B, Standards Variance – 9.3C, and Special Exception – 9.3E. What is the reason for removing “comfort”?

Response: The word “comfort” can be added to the referenced sections.

8. In 9.3C, the BZA approval of Use Variance states that the board may grant a variance for use if, after a public hearing, it makes findings of facts in writing 5 criteria.

Item 2 addresses only adjacent property owners, should consideration be given to “surrounding” or “nearby” property owners?

185
186 *Response: The suggested terms could be added to Item 2 but should be defined as*
187 *being within a reasonable distance from the subject property, perhaps one-*
188 *quarter mile.*

- 189
190 9. In 9.3.C.a.5, it states that the “approval of the variance does not contradict the
191 goals and objectives of the Comprehensive Plan”. In 9.3.E.4 which addresses the
192 BZA approval of Special Exceptions, it states that “ the proposed use will be
193 consistent with the character of the district therein, the spirit and intent of this
194 Ordinance, and the Scott County Comprehensive Plan.

195
196 What is the reason for this discrepancy?
197

198 *Response: If the Plan Commission sees this wording as being a discrepancy, then*
199 *the wording can be revised. If so, then we suggest that the wording in 9.3.C.a.5*
200 *be used in both referenced sections.*

- 201
202 10. What format will the Area Plan Commission & Saegesser use to decide on the
203 suggestions to the Zoning Ordinance, and what is the timeline?
204

205 *Response: The Plan Commission, not Saegesser Engineering, Inc., will decide*
206 *what revisions might be made to the draft ordinances. Once the Plan Commission*
207 *is satisfied with the draft ordinances, the commission will certify the documents*
208 *and forward them to the County Commissioners and Scottsburg City Council for*
209 *their consideration and adoption. If either the County Commissioners or City*
210 *Council request revisions to the draft ordinances, then the documents will be*
211 *returned to the Plan Commission to address the revisions. The County*
212 *Commissioners and City Council have been made aware of the progress of the*
213 *new documents; therefore it is expected that their comments are being addressed*
214 *at this time.*

215
216
217 The following comments were received at the first public hearings held July 31, 2002,
218 August 21, 2002 and August 28, 2002.

- 219
220 • Copies are not available to take home and the public cannot read the ordinances in
221 one setting.

222
223 *Response: This comment was noted and taken to the APC. It was decided that*
224 *copies of the documents would be given to the Township Trustees who would*
225 *loan the copies to interested citizens. In addition it was agreed to place a copy of*
226 *the documents at the public hearing venues prior to the scheduled meetings.*
227 *Prior to the initial public meeting, copies of the documents were placed at the*
228 *APC office, the County Auditor’s office, the Scottsburg and Austin Public Library,*
229 *and at City Hall.*

- 231 • Is the current official qualified to do building inspections?
232
233 *Response: This comment is not related to the draft documents.*
234
- 235 • What zoning classifications can develop into a subdivision?
236
237 *Response: Any zoning classification can develop into a subdivision per the draft*
238 *ordinances.*
239
- 240 • What are the proposed road frontage requirements for a subdivision?
241
242 *Response: A, R-1, R-2, and FP Districts: 50 feet on a public street with access*
243 *from public street. LB and GB Districts: 70 feet on a public street with access*
244 *from public street. I District: 100 feet on a public street with access from public*
245 *street.*
246
- 247 • What is the definition of a wrecking yard and junkyard?
248
249 *Response: See above discussion concerning the definition of “junkyard”. We*
250 *suggest that the reference to “wrecking yard” in the draft zoning ordinance*
251 *section 3.6 (9) be changed to “junkyard”.*
252
- 253 • What are the rules regarding automobiles that are licensed? Some people have
254 car collections of ten or more cars.
255
256 *Response: This comment is not related to the draft documents.*
257
- 258 • How do we find out if the County has abandoned a county road? Example was
259 given of County Road 500 South.
260
261 *Response: This comment was referred to the Scott County Cartographer’s office.*
262
- 263 • Can the Zoning Ordinance regulate the possession or use of a firearm?
264
265 *Response: No.*
266
- 267 • Wouldn’t the “Grandfather Clause” include junk cars?
268
269 *Response: Article Seven of the Draft Zoning Ordinance addresses non-*
270 *conforming structures, lots and uses. We believe that this section includes all*
271 *land uses.*
272
- 273 • Could the County offer copies of the draft ordinances for sale to the public at
274 cost? Mark Hayes suggested that copies be placed at the site of the public
275 hearings ahead of time to be “checked-out” by the public.
276

277 *Response: See above response concerning the availability of the draft documents.*
278 *It is our understanding that the Auditor's office did sell some copies at their office*
279 *and copies were placed at the public hearing venues prior to the meeting date.*
280

- 281 • Could the draft ordinances be placed on the County's website?
282

283 *Response: We were unable to locate any web master of a Scott County web sites.*
284 *Subsequent to the public meeting at the Vienna-Finley Elementary School, we*
285 *understand that the county is developing a website and the draft ordinances and*
286 *Comprehensive Plan have been posted.*
287

- 288 • Who would be liable if someone gets hurt sneaking around on your property
289 looking behind trees, fences, etc?
290

291 *Response: This appears to be a legal question that we are not qualified to*
292 *address.*
293

- 294 • The Commissioners passed an ordinance, which limited junk automobiles. It
295 should have been on a ballot and voted on.
296

297 *Response: This comment is not related to the draft documents.*
298

- 299 • Would we need a permit to put a 3' X 3' inflatable swimming pool in our
300 backyard? We would need a permit every year.
301

302 *Response: No.*
303

- 304 • When do the Commissioners meet?
305

306 *Response: The County Commissioners meet at the Courthouse on the first and*
307 *third Mondays of the month. Interested persons should contact the Scott County*
308 *Auditor's office for the time and location of the Commissioners meetings.*
309

- 310 • What will we do about new housing developments hooking on to an adjacent
311 sanitary sewer line?
312

313 *Response: The plan commission can encourage new developments to connect to*
314 *existing sanitary sewer lines.*
315

- 316 • Can you summarize major changes in the ordinances?
317

318 *Response: Because both of the draft ordinances are completely new documents,*
319 *we believe that it would not be a fair representation of the documents to provide a*
320 *brief summary of the changes.*
321

- 322 • What is the problem with zoning now?

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Response: The existing Zoning Ordinance and Subdivision Ordinance were adopted several decades ago and do not adequately address the development that is expected to occur in the future.

- Are junkyards defined in the new ordinance?

Response: Yes.

- Why is there a two acres minimum for subdivisions if some areas could have public sewers and have smaller lots?

Response: Homes served by public sewers do not have to be on two-acre lots.

- Rights of property owners need to be protected.

Response: No response required.

- You shouldn't be forced to hook-on to a public sewer if a septic tank can function properly on your lot.

Response: The draft ordinances do not force connections to public sewers.

- Per Article 8.4 Section C of the Draft Zoning Ordinance, shouldn't members of the Area Plan Commission be recording minutes of tonight's meeting?

Response: The Draft Zoning Ordinance has not been adopted.

- Per Article 3 of District Regulations Special Exception, in a R-1 district, if a church would be built within the district would you need a special permit?

Response: Any institution of an educational, religious, medical, charitable or philanthropic nature would require a Special Exemption in an R-1 District.

- What is the definition of a Special Exception?

Response: Special Exception is defined in the Draft Zoning Ordinance as... "The authorization of a use that is designated as such by this ordinance as being permitted in the district concerned if it meets special conditions, is found to be appropriate and upon application, is specifically authorized by BZA."

- In reference to Comment Section Article 1, I believe that landfill and dump should be added to the definitions and added to the Industrial district as a Special Exception and that feed lots should be added as a Special Exception in the Agricultural district.

369 *Response: Refer to above discussion of the definitions of landfill and dump and*
370 *responses concerning adding land uses to the “Special Exemption” listings. The*
371 *plan commission can add any special exemptions to zoning districts, as they deem*
372 *appropriate.*

- 373
374 • Will the public have input after these public hearings?

375
376 *Response: All APC, County Commissioner, and City Council meetings are open*
377 *to the public.*

- 378
379 • If you’ve been working on this for more than a year and a half, why can’t we have
380 more time to review the documents?

381
382 *Response: The Indiana Code requires only one public hearing. We have held*
383 *three public hearings (two more than the I.C. requires). In addition, the public*
384 *can attend meetings of the Plan Commission, County Commissioners, and City*
385 *Council to provide additional public input.*

- 386
387 • Shouldn’t we be able to look at the draft ordinances and be able to get copies?

388
389 *Response: Refer to previous responses concerning the availability of copies of*
390 *the draft documents.*

- 391
392 • Shouldn’t we have a right to vote on these changes via a referendum?

393
394 *Response: The Indiana Code does not address a referendum for adoption of*
395 *Zoning and Subdivision Ordinances.*

- 396
397 • Are Planned Unit Developments (PUD’S) included in the draft ordinances?

398
399 *Response: The draft documents do not address PUD zoning districts.*

- 400
401 • We do not want any solid waste from outside our area (County/State) brought into
402 the County. Can we do that?

403
404 *Response: We do not believe that a zoning or subdivision ordinance can*
405 *accomplish this goal.*

- 406
407 • Copies of the draft ordinances were not at the Scottsburg library.

408
409 *Response: Our office provided the library with copies of the draft ordinances*
410 *prior to the first public hearing. Another copy was delivered to the library on*
411 *August 29, 2002.*

- 412
413 • More copies of the draft ordinances should be available at each location.
414

415 *Response: Refer to previous responses concerning the availability of copies of*
416 *the draft documents.*
417
418 • Why aren't legal notices published in the Giveaway?
419
420 *Response: The Giveaway is not classified as a newspaper because it is a free*
421 *publication. Legal notices are published in the Scott County Journal per the*
422 *requirements of the Indiana Code.*
423
424 • When will the ordinances go into affect?
425
426 *Response: The ordinances will not take affect until the County Commissioners*
427 *and Scottsburg City Council adopt them. The required process may take several*
428 *weeks or months to complete, but that we hoped that the process would be*
429 *complete late this year or early next year.*
430
431 • How do you know your not breaking the law if you don't know the law?
432
433 *Response: No response is warranted.*
434
435 • Can we have more public hearings?
436
437 *Response: Refer to previous comments and responses concerning public*
438 *hearings.*
439
440 • There is a conflict in the draft ordinance between the minimum lot sizes being
441 five acres instead of two acres as is currently required.
442
443 *Response: We suggest that the lot sizes be revised to reflect the provisions of*
444 *Scott County Ordinance No. 2002-1 (see attached Ordinance), including the two-*
445 *acre lot size.*
446
447 • Do you need a permit to cut down a tree?
448
449 *Response: The draft ordinances do not require a permit to cut down a tree.*
450
451 • Where is the building inspector? We needed to have \$40,000 worth of work done
452 on our house after the building inspector okayed it.
453
454 *Response: Does not warrant a response.*
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Our office received the following additional comments.

1. Mr. Ed Roll, Scott County DNR Resource Specialist, suggested that his agency be included as a “utility” in the plan review process, thereby requiring developers to comply with State storm water regulations.

Response: We agree with Mr. Roll’s suggestion.

2. Should the Area Plan Commission or Scott County Drainage Board be responsible for reviewing and approving storm water related issues associated with planned developments?

Response: The attorney for the drainage board is currently reviewing this matter.